

The following Comments were received by Water Board staff on January 19, 2010:

Cecil Basenberg	Water Board Form
Lynda Brothers	Comment Letter
Bonita L. McConnell	Water Board Form with Comments
Nancy Williams McClure for Zelma L. Williams	Water Board Form

Notice
Submittal of Written Material for Regional Board Consideration

In order to ensure that the State of California Lahontan Regional Water Quality Control Board has the opportunity to fully study and consider written material, it is necessary to submit it at least ten (10) days before the Regional Board Meeting. Pursuant to Title 23 of the California Code of Regulations, Section 648.2, the Regional Board may refuse to admit written testimony into evidence unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a hardship. If any other party demonstrates prejudice resulting from admission of the written testimony, the Regional Board may refuse to admit it.

COMPLETE FORM AND RETURN

RECEIVED JAN 19 2010	
BB	

To: CA Regional Water Quality Control Board, Lahontan Region
14440 Civic Drive, Suite 200
Victorville, CA 92392
ATTN: Brianna Bergen

Comments TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR NURSERY PRODUCTS HAWES COMPOSTING FACILITY, SAN BERNARDINO COUNTY

We concur with proposed requirements

We concur; comments attached

We do not concur; comments attached

_____ *C. Basenberg* (Sign)

_____ CECIL BASENBERG (Type or print name)

_____ (Organization)

_____ (Address)

_____ (City and State)

_____ (Telephone)

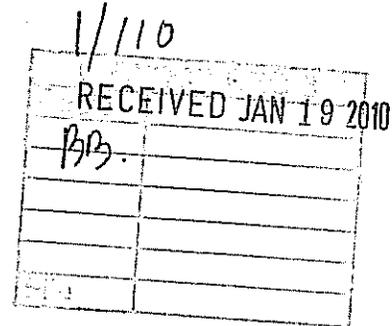
Lynda L. Brothers
[Redacted]

LBrothersLaw
[Redacted]

January 15, 2009

VIA ELECTRONIC MAIL, ORIGINAL US POSTAL SERVICE

Brianna Bergen
CA Regional Water Quality Control Board, Lahontan Region
14440 Civic Drive, Suite 200
Victorville, CA 92392



Dear Ms. Bergen,

This letter is submitted on behalf of Nursery Products, LLC pursuant to the request for public comment by the California Regional Water Quality Control Board, Lahontan Region (RWQCB) on tentative waste discharge requirements for the Nursery Products Hawes Composting Facility. As you know, Nursery Products plans to operate a biosolids and green materials composting facility in San Bernardino County, California. The Nursery Products project, known as the Hawes composting facility, has undergone extensive environmental review, including legal challenges, and will represent a state of the art biosolids composting facility.

As you know, Nursery Products will be the permittee under the Board Order No. R6V-2009 [Tentative] (Tentative Permit), dated December 22, 2009. As such, Nursery Products is providing a number of comments that relate very specifically to certain operational issues that apparently were not fully considered in the preparation of the Tentative Permit. Please see the letter submitted on November 23, 2009 during the initial comment period. Nursery Products appreciates the changes to the Tentative made as a result of the initial comment period, but this letter is submitted because a large number of important operational issues in that letter have not been addressed. And, as you will recall, Nursery Products agreed for purposes of this Permit to regulation of the facility under the California Code of Regulations Title 27, even though certain questions arise as to the applicability thereof to this project. As a result of that willing concession, Nursery Products expected that Lahontan would take greater heed to the technical comments which are resubmitted with in this letter. Nursery Products looks forward to continuing to work cooperatively with you and the RWQCB staff.

The following comments are presented in lieu of a marked up copy of the Tentative Permit. The comments are presented in the same order as the referenced numbered sections of the Findings, Order and Monitoring and Reporting Program, except the one item that I discussed with legal counsel are presented as comment I.

- I. At the beginning of the Findings Section, we request the addition of language making it clear that the Findings are solely for the purpose of the Permit. We suggest the following:

The Findings and Definitions made in this Board Order No. R6V-2009 – [Tentative] are solely for the purpose of this Order and do not apply and shall not be used for any other regulatory or legal purposes. The Findings are made by the Water Board based solely upon matters within their jurisdiction.

- II. Please make the following changes to the Findings section.

1. In Paragraphs 7, 9, and anywhere else it is so used, please remove the word “stored” and replace it with the word “located.” No storage of wastes will occur on the site.

2. In the Order, at Section V. A. entitled Financial Assurance Documents please remove “At least 60 days” and begin the sentence with “Prior.” This change makes the Order consistent with the findings in Paragraph 31 which requires financial assurance to be in place prior to operation.

- III. MONITORING AND REPORTING PROGRAM PAGE 3 SECTION IIA1– SURFACE IMPOUNDMENT MONITORING WASTEWATER.

The tentative monitoring and reporting program (MRP) states that the liquid in the surface impoundments must be monitored quarterly and analyzed to determine the concentrations of parameters described in Table 1 (Attachment A). The Report of Waste Discharge (ROWD) that was submitted by Nursery Products intentionally did not include sampling of the liquid in the surface impoundments. The surface impoundments are solely for the collection of rainwater and rainwater runoff from the site and will be emptied of liquid regularly. Any water in the retention basins must be removed within 30 days of incidence as a mitigation measure under CEQA imposed by the County of San Bernardino. Since all of the liquid will be removed regularly and promptly, the requirement to sample such liquid is meaningless and impossible to fulfill when the impoundments are dry. There will not be liquid to sample. Nursery Products requests that this sampling requirement in the MRP be deleted. We note that removal of this requirement does nothing to lessen the protection to the environment or the waters of the State of California because the absence of water to sample in the retention basins also means the absence of water as a potential pollutant source. In the Tentative, this requirement persists with a requirement that a report is still necessary. Submitting a report on this topic is a meaningless exercise. Please delete this quarterly reporting requirement. At most it is

reasonable to include it as an annual requirement, if at the time of annual sampling water is present.

IV. MONITORING AND REPORTING PROGRAM PAGE 4 SECTION IIA4 – SURFACE IMPOUNDMENT MONITORING SLUDGE.

The tentative MRP states that the sludge in the surface impoundments must be sampled and monitored annually and analyzed to determine the concentrations of parameters described in Table 1 (Attachment A). The ROWD submitted by Nursery Products intentionally did not include sampling of the sludge in the surface impoundments. The surface impoundments will be emptied of liquid within 30 days of incidence and it is highly unlikely that sludge will be present. If it is, it too will be removed. The surface impoundments are solely for the collection of rainwater and rainwater runoff from the site itself. The 30 day removal requirement was imposed by the County of San Bernardino as a mitigation measure under CEQA. Since all of the sludge will be regularly and promptly removed, the requirement to sample such sludge is meaningless and impossible to fulfill. There will not be any sludge to sample. Nursery Products requests that this sampling requirement in the MRP be deleted. We note that removal of this requirement does nothing to lessen the protection to the environment or the waters of the State of California because the absence of sludge to sample in the retention basins also means the absence of sludge as a pollutant source. See Comment III above.

V. WDR REQUIREMENTS PAGE 17 SECTION D – LEAK DETECTION MONITORING SUMPS & MONITORING AND REPORTING PROGRAM PAGE 4 SECTION 3 – LEAK DETECTION MONITORING SUMPS.

Both referenced sections require Nursery Products to annually test the Leak Detection Monitoring Sumps (LDMS) in order to demonstrate proper operation. Nursery Products understands that it is not possible to test each LDMS. Once the surface impoundment liners are installed the LDMS become closed systems. This limitation imposed in the Permit is typically applied to a Leachate Collection and Removal System (LCRS) and not to a LDMS. Nursery Products requests that the annual leak detection test requirement be removed from both sections. The LDMS will be monitored weekly per the conditions of the MRP.

VI. MONITORING AND REPORTING PROGRAM PAGE 5 SECTION B – WASTE PILE MONITORING.

The MRP states that the discharger must collect background data of the native engineered fill material for the monitoring parameters and constituents of concern listed in Table 3 (Attachment C) prior to the construction of the composting pad. Nursery Products will collect

samples across the waste pile area and composite all of the samples together to characterize the soil below the waste pile.

VII. MONITORING AND REPORTING PROGRAM PAGE 5 SECTION B – WASTE PILE MONITORING.

The MRP requirement for monitoring of the waste pile is inconsistent with the ROWD submitted by Nursery Products. The MRP requires that annually a minimum of ten soil samples from approved locations within the waste pile must be collected at six-inch intervals to depth of 1.5 feet and the samples collected from the 6-inch, 1-foot, and 1.5 foot interval be sent to the laboratory for analyses to determine the concentrations of monitoring parameters in Table 3 (Attachment C). The ROWD stated that a sample be collected only at the 6-inch and 1-foot depths and these samples will be analyzed for arsenic, copper, lead, mercury, molybdenum, nickel, selenium, zinc, nitrate, and phosphorus. The ROWD then stated that the results will be compared to the levels listed in 40 CFR 503.13, Table 1. The MRP requires that Nursery Products test for many more parameters than were proposed in the ROWD. Nursery Products requests that the sampling parameters in the MRP be consistent with the ROWD and that all other parameters be removed. The requirements in the Tentative do not constitute sound regulatory practice as they require excessive sampling of irrelevant parameters, including numerous extremely expensive compounds highly unlikely to be located at the facility. Nursery Products requests that Lahontan actually think about the likely scenarios rather than require testing for unlikely, expensive parameters. These requirements do not provide any added environmental protection. At the very least, the following parameters should be removed: Volatile Organic Compoundss, Semi-Volatile Organic Compounds, Organochlorine Pesticides, Organophosphorus Pesticides, Chlorinated Herbicides, and Title 22 metals.

VIII. MONITORING AND REPORTING PROGRAM ATTACHMENT C – SOIL MONITORING.

MBAS, TDS, and total hardness are referenced for soil monitoring and are typically not applicable for soil. Nursery Products requests these constituents be removed from the soil monitoring program.

IX. WDR REQUIREMENTS PAGE 3 – DESCRIPTION OF THE SURFACE IMPOUNDMENTS.

The section requires that process wastewater generated primarily as a result of the composting process must be disposed to Class II surface impoundments. Nursery Products requests that this statement be deleted because stormwater is addressed previously in the section and there will

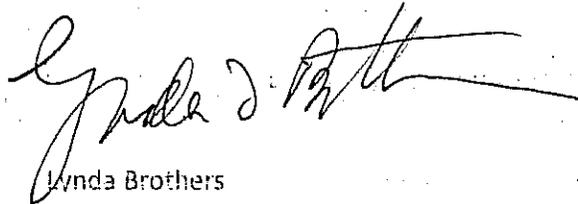
Lynda L. Brothers
[REDACTED]

LBrothersLaw
[REDACTED]

not be collectible process wastewater. The provision is misleading and incorporates an inaccurate portrait of the compost process.

Thank you very much for your attention to these comments. If you have any questions about the interpretation or meaning of these comments please call or send electronic message to Chris Seney at [REDACTED]

Sincerely yours,



Lynda Brothers
LBrothersLaw

cc Chris Seney, Nursery Products

13 January 2010

Dear Brianna Berger,

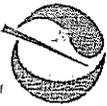
As a property owner adjacent to the Haves project, I am deeply opposed to any type of Waste Discharge or Composting here on our property.

The Haves Facility has and will continue to lower our property values and reduce any chances for Sale of Property in the future.

This property, parcel number 0493011130000 has been in our family for four generations. It was purchased in early 1860's.

No one wants to live next to a garbage dump. - would you?

Sincerely,
Bonita McConnell



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

Victorville Office
14440 Civic Drive, Suite 200, Victorville, California 92392
(760) 241-6583 • Fax (760) 241-7308
<http://www.swrcb.ca.gov/rwqcb6>

Arnold Schwarzenegger
Governor

*Robin
760-291-6467*

December 22, 2009

To Attached Mailing List

WDID NO. 6B360903006

TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR NURSERY PRODUCTS HAWES COMPOSTING FACILITY, SAN BERNARDINO COUNTY

Enclosed are tentative Waste Discharge Requirements (WDRs) for the above subject.

The California Regional Water Quality Control Board requests that you review the enclosed documents and provide us with your written comments no later than **January 18, 2010**. Comments received after that date cannot be given full consideration in preparation of the recommended Board Order to be presented to the Regional Board for adoption at the meeting scheduled for **March 10 and 11, 2010**.

If you need further information, please contact me at (760) 241-7306.

Sincerely,

Rebecca Phillips
Office Technician

Enclosures: Tentative Board Order
Comment form

cc: Mailing List

1/112

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<i>BB</i>	

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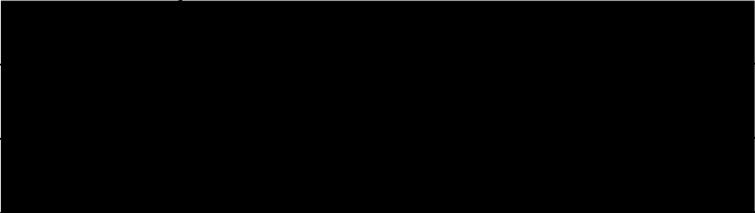
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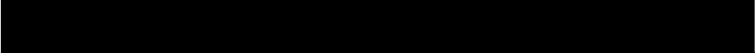
We do not concur; comments attached

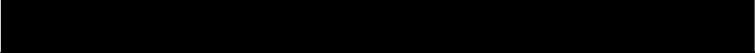
Bonita L. McConnell (Sign)

BONITA L. McCONNELL (Type or print name)

PROPERTY OWNER ADJACENT HAWES SITE (Organization)

 (Address)

 (City and State)

 (Telephone)

Regional We... Quality Control Board, Lahontan Division
14440 Civic Drive, Suite 200
Victorville, CA 92392
ATTN: Brianna Bergen

RECEIVED JAN 19 2010
[Signature]

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[Redacted]

____ (Organization)

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